

Less Law, More Order: Best Hope for Crime Victims

A commentary of Professor Irvin Waller based on his book, “Less Law, More Order.”

Facing persistent violence against women and street violence, world cities will run with the blood of more innocent victims unless we approach crime differently. *Less Law, More Order: The Truth about Reducing Crime* (www.lesslawmoreorder.com) is a short popular book written for civic leaders and concerned citizens everywhere who care about ending violence and respecting victims.

Permanent solutions, not kneejerk reactions to specific headline-grabbing crimes, are what crime victims needs, the book contends. Hiring more police officers, as has been the solution in many cities across the world, creates more prisoners – but not more justice and certainly not more peace. Invest in youth, invest in neighbourhoods, invest in the future – that is how crime must be fought. Guarantee rights and services for victims of crime – that is justice.

Less Law, More Order communicates to policy-makers and students of crime policy what the World Health Organization and other authoritative organizations have known for many years. It endorses smarter, better policing over hiring more officers, and it praises cities around the world that have successfully reduced the incidents of murder and violence by addressing the underlying causes. It shows how some of the poorest of countries have made victim rights and representation a priority.

It is not too late for governments to find solutions to its violence problems – but it must happen now and mirror the successes of countries that have made strides against violence and guaranteed human rights for victims. Every big city should establish a permanent crime prevention and victim assistance office. Together, social service agencies, community and school leaders, and the police can plan and implement ways to reach young people and entrench them into the community while turning them away from violence against women and gangs. Support and justice for victims must be guaranteed like any human right – this will also stop violence.

If we took just ten percent of what we spend to catch and punish offenders and put it into programs to help young people, crime and violence against women would drop dramatically and so would drug abuse. It’s the smartest thing we could do for our future.

Truth about support and justice for victims

Here is some of what *Less Law, More Order* says about support and justice for crime victims and its implications for more comprehensive and just laws for victims. As a pioneer of the proposed UN convention on support and justice for victims of crime, these are related to proposed legislation that governments could adopt now.

The first human right of victims is for the government to invest in a sustained and smart way in what works to reduce crime and victimization and enhance community safety.

We must get governments to reduce the numbers of victims of property and violent crime using the international knowledge about what reduces crime. We must invest to tackle the social determinants of so much drug abuse. *Less Law, More Order* demonstrates how an investment equivalent to 10% of what you are presently spending on reacting to crime would achieve a 50% reduction in the numbers of victims by the end of a ten year period.

Recognizing that billions of people, including many women and children, throughout the world still suffer harm as a result of crime, and that the rights of these victims still have not been adequately recognized, and that they may, in addition, suffer hardship when assisting in the prosecution of perpetrators... (draft UN Convention on Justice and Support for Victims)

Unfortunately large numbers of persons are still victims of crime and violence. Even if politicians act swiftly on preventive policies demonstrated in *Less Law, More Order* to reduce crime and victimization, there will still be some victims of crime who will suffer loss, injury and trauma with few remedies. Worse still they will be ignored and their plight exacerbated by our system of law enforcement and criminal justice.

Recalling the resolution of the UN General Assembly (GA/RES/40/34) in 1985 agreed by all governments to take the necessary steps to give effect to the provisions contained in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power... (draft UN Convention on Justice and Support for Victims)

Much of what is needed to do justice to support for victims has been agreed by governments through an international human rights instrument given the long title of the UN Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power. This Declaration was agreed with active support of member states, including the US Government through its Office for Victims of Crime in the US Department of Justice.

The rights of victims are as important as any other human rights. In Europe and other developed countries, the needs of victims of crime and abuse of power are met through legislation, services, and reparation. In the USA, many of the services for crime victims have been funded from fines on federal offenders rather than taxes. Among these offenders are large corporations which have paid fines of hundreds of millions of dollars into the Crime Victims Fund – a procedure that could be adopted anywhere.

Noting the partial progress achieved by some governments in

- *legislating the basic principles of justice into domestic laws combined with a high level office to implement policies and programs to provide comprehensive measures for victims of crime;*
- *providing victims of crime with better information, support services, reparation from offenders, compensation from the state and a role in criminal proceedings;*
- *establishing programs to protect victims of crime who are vulnerable, for instance because of gender or age;*
- *launching permanent boards and legislation to promote the use of effective and proven prevention of victimisation at all levels of government.* (draft UN Convention on Justice and Support for Victims)

There is much rhetoric on doing justice and support for victims. Indeed there are often laws and a patchwork of services to implement those laws. But much needs to be done to make support services universal, to get restitution paid, and to provide equitable compensation.

Police must pay more attention to victims of crime or risk losing their source of information for most crime. This must include making female officers available to female victims, referral of victims to community support services and providing information on how to prevent repeat victimization.

Systems such as Gaçaga in Rwanda, bringing certain offenses committed during that nation's 1994 genocide before the local community for resolution, provide more comprehensive models for restorative justice than the patchwork of processes in place today in the USA. While the US has not endorsed the International Criminal Court, the Statute of Rome provides the single best model of how victims should be dealt with in a court system, giving victims the status of parties to the proceedings and access to free legal services as well as social support.

Some restorative justice processes that involve the victim reduce the desire for retaliation and so are important ways of preventing crime.

In France, victims have lawyers in criminal courts who may be paid through legal aid. Japan has recently adopted a model law on how to implement the UN declaration, including similar provisions. For India, the Commission for Reform of Criminal Justice has called for an overhaul of criminal justice to make it more responsive to victims, and to provide rights and reparation.

It is time in legal systems such as that in USA or England to move beyond token victim impact statements or restorative justice processes which do not guarantee victims' participation. By combining the criminal and civil jurisdictions in one court process, we would enable victims to have standing to defend their personal interests in their safety, reparation and truth.

But what is needed more than anything else is to provide victims with a remedy to get that action, likely through a Federal constitutional amendment such as that almost adopted in 2004. This should be combined with legislative approval of the following sections from the draft UN convention for victim justice.

Laws to guarantee support and justice for crime victims

I am proposing that governments adopt a Victims of Crime Act that would put the UN principles on justice for victims of crime into national legislation with an office for victims of crime whose role is to ensure the implementation of those principles in practice. This legislation would also identify the role of the civil party in the criminal process with a legal remedy to protect their right to:

- protection of their personal safety and be reasonably protected from the accused

- full and timely restitution
- respect for dignity and privacy
- be heard at any hearing, involving release, plea, sentencing or parole

In 2006, the World Society of Victimology and the International Victimology Institute at the University of Tilburg in the Netherlands brought together a small group of experts (including the founders of IOVA) on the implementation of victim rights from across the world. This group developed a cogent draft for a United Nations Convention on Justice and Support for Victims which is available at www.tilburguniversity.nl/intervict/undeclaration/

I have deleted the sections of this convention that are international to propose a *Model Law on Justice and Support for Victims of Crime*. Articles 1-3 defines who is a victim of crime. Article 4 makes a commitment to the reduction of victimization. The following articles provide for access to justice and fair treatment (5), protection of victims, witnesses and experts (6), information (7), assistance (8), restorative justice (9), restitution (10), and compensation (11). A third part sets out how to ensure implementation (12) and monitoring (13).

Less Law, More Order estimates the costs of doing justice to support for victims as requiring an allocation or reallocation of four percent of what is currently spent on law and order – two per cent for support and legal remedies and two per cent for reparation. Why not?